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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,189	12/20/2001	Kyung-Ju Choi	01-5AAF	2880

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EXAMINER

YAO, SAMCHUAN CUA

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/028,189

Applicant(s)

CHOI, KYUNG-JU

Examiner

Sam Chuan C. Yao

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 and 30-32 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20, drawn to a method of making a fibrous web, classified in class 156, subclass 167.
  - II. Claim 21, drawn to a method of a fibrous filter web, classified in class 264, subclass 113.
  - III. Claims 30-32, drawn to an apparatus for making a fibrous web/fibrous filter web, classified in class 425, subclass 81.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions (I-II) and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another materially different apparatus such as an apparatus where *"transfer and orientation means positioned between said first and second collector surfaces ..."* or *"a plurality of spaced longitudinally extending idler rolls positioned between said first and second rotatable collectors to orient and transfer said first layered mat ..."* is/are NOT utilized.
3. Groups I-II are directed to distinct methods, where patentability in the independent claims of each group is based on divergent combination of method steps. For instance, independent claim 1 or 13 in Group I requires (for example) *"feeding 1<sup>st</sup> fibers in attenuated **multiple fiber layers** from a 1<sup>st</sup> spaced orifice zone ... having fiber*

size distribution" (bold face and emphasis added), but does not recite (for example) "feeding in a first feed zone first filter fibers of melt blown composition ... said first filter fibers having a permeability in the approximate range of five (5) to two thousand (2000) cubic feet per minute per square foot ..." (emphasis added). The differences between these groups are critical and significant to the extent that the inventions constitute prima facie patentably distinct combinations, absent evidence to the contrary. This can readily and clearly be demonstrated by the side-by-side comparison of the independent claims noted above. Similarities of the independent claims are merely superficial, since certain significant limitations in one of the groups find no counterpart in the other group(s) and vice versa.

Presently, no claim is generic. **Rejoinder of a non-elected method group will be considered, upon indication of allowable subject matter, depending on the basis thereof.**

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification; and moreover, the search required for Group I is not required for Group II and vice versa, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Mr. Ralph Brick on 11-20-03 by Examiner Boyd to inform Mr. Brick that, further restriction is needed on an elected and pending claims, as noted above. However, a request to make an oral election to the above restriction requirement did not result in an election being made. Note: non-elected claims 22-29 were canceled in an amendment dated 09-04-03.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (703) 308-4788. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff H Aftergut can be reached on (703) 308-2069. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2058.



Sam Chuan C. Yao  
Primary Examiner  
Art Unit 1733

Scy  
11-25-03